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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,697	12/20/2001	Thomas P. McConnell	US 010679	5719

24737 7590 05/02/2003

PHILIPS ELECTRONICS NORTH AMERICAN CORP
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TARRYTOWN, NY 10591

EXAMINER

SPISICH, MARK

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 05/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/027,697	MCCONNELL, THOMAS P.	
	Examiner	Art Unit	
	Mark Spisich	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

Applicant provided a search report as well as copies of four(4) references; however, disclosure statements are supposed to be accompanied by a list ("1449") identified US patents by number, date, name, class and sub-class so that the examiner may initial off the references. In the absence of a proper "1449", the cited references have been cited on the attached "892".

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 811,195. '195 discloses a toothbrush comprising bristles (3) having a stepped configuration including including a top portion (3c), middle portion (3b) and base portion (3a) (see fig 5).

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Cansler (USP 5,786,087). The recitation of the intended use of the bristle (10) in a toothbrush fails to define over the prior art.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Ward et al (USP 4,307,478). The recitation of the intended use of the bristle (10) in a toothbrush fails to define over the prior art.

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5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by O'Brien (USP 5,701,629). The recitation of the intended use of the bristle (100) in a toothbrush fails to define over the prior art.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (USP 4,565,205). The patent to Taylor discloses a brush comprising bristles having a stepped configuration (see figs 4,14,21 and 24) including a top portion having a diameter of about .005 inch, a middle portion and a base portion. The recitation of the invented use of the bristle fails to define over the prior art.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor (USP 4,565,205). The patent to Taylor discloses stepped bristles (32) (see fig 4) including a top portion which is straight with a uniform cross-section (claim 5) and a diameter of approximately .005 inches (see column 5, lines 35-36), middle portion which is straight with a uniform cross-section and a base portion which is straight with a uniform cross-section and a diameter of approximately .010 to .013 inches (see page 5, line 34). As the patent to Taylor discloses a top portion with the recited diameter as well as the stepped increase in diameter to the base of the bristles, any differences in

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the diameters of the middle and base portions of Taylor would amount to an obvious choice of design depending on the desired bristle flexibility.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cansler (USP 5,786,087). The patent to Cansler discloses bristles (10) for a brush comprising the recited top portion (12) and base portion (14). Although the bristle of Cansler is preferably use in a paintbrush (which do not having a plurality of tufts), the is a teaching in Cansler that the bristles may be used in brushes which are not paintbrushes. As brushes per se are known to mount bristles in a plurality of tufts, the use of the bristles of Cansler in such a brush would be obvious to one of ordinary skill.

10. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kweon (USP 6,090,488) in view of GB 811,195. The patent to Kweon discloses a toothbrush with a plurality of tufts of bristles wherein the bristles progressively taper from a base portion to a top portion thereof. The patent to Kweon discloses the invention substantially as claimed with the exception of the exception of the discrete stepped configuration thereof. '195 discloses toothbrush bristles (3) including three discrete stepped portions (3a-3c in fig 5). It would have been obvious to one of ordinary skill to have modified the bristles of Kweon as such so as to produce discrete regions along the bristle length which have relatively uniform properties.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Each of the cited patents are pertinent to brush elements/bristles which have a stepped configuration.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (703) 308-1271. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Mark Spisich
Primary Examiner
Art Unit 1744

MS
May 1, 2003